

(c) *Election of officers.* Each Advisory Council shall elect from among its members a chairperson, a vice chairperson, and any other officers the Advisory Council deems appropriate.

(d) *Duties—(1) Meetings with the Banks.* (i) The Advisory Council shall meet with representatives of the Bank's board of directors at least quarterly to provide advice on ways in which the Bank can better carry out its housing finance and community lending mission, including, but not limited to, advice on the low- and moderate-income housing and community lending programs and needs in the Bank's District, and on the use of AHP subsidies, Bank advances, and other Bank credit products for these purposes.

(ii) The Advisory Council's advice shall include recommendations on:

(A) The amount of AHP subsidies to be allocated to the Bank's competitive application program and any Bank homeownership set-aside programs;

(B) The AHP Implementation Plan and any subsequent amendments thereto;

(C) The scoring criteria, related definitions, and any additional optional District eligibility requirements for the competitive application program; and

(D) The eligibility requirements and any priority criteria for any Bank homeownership set-aside programs.

(2) *Summary of AHP applications.* The Bank shall comply with requests from the Advisory Council for summary information regarding AHP applications from prior funding periods.

(3) *Annual analysis; public access.* (i) Each Advisory Council annually shall submit to the FHFA by May 1 its analysis of the low- and moderate-income housing and community lending activity of the Bank by which it is appointed.

(ii) Within 30 days after the date the Advisory Council's annual analysis is submitted to the FHFA, the Bank shall publish the analysis on its publicly available Web site.

(e) *Expenses.* The Bank shall pay Advisory Council members' travel expenses, including transportation and subsistence, for each day devoted to attending meetings with representatives

of the board of directors of the Bank and meetings requested by the FHFA.

(f) *No delegation.* A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility to appoint persons as members of the Advisory Council, or to meet with the Advisory Council at the quarterly meetings required by the Act (12 U.S.C. 1430(j)(1)).

§ 1291.5 Competitive application program.

(a) *Establishment of program.* A Bank shall establish a competitive application program pursuant to the requirements of this part.

(b) *Funding periods and application process—(1) Funding periods.* A Bank may accept applications for AHP subsidy under its competitive application program during a specified number of funding periods each year, as determined by the Bank.

(2) *Eligible applicants.* A Bank shall accept applications for AHP subsidy under its competitive application program only from institutions that are members of the Bank at the time the application is submitted to the Bank.

(3) *Submission of applications.* Except as provided in paragraph (c)(13)(i) of this section, a Bank shall require applications for AHP subsidy to contain information sufficient for the Bank to:

(i) Determine that the proposed AHP project meets the eligibility requirements of paragraph (c) of this section; and

(ii) Evaluate the application pursuant to the scoring guidelines adopted by the Bank pursuant to paragraph (d) of this section.

(4) *Review of applications submitted.* Except as provided in paragraph (c)(13)(ii) of this section, a Bank shall review the applications for AHP subsidy to determine that the proposed AHP project meets the eligibility requirements of paragraph (c) of this section, and shall evaluate the applications pursuant to the Bank's scoring guidelines adopted pursuant to paragraph (d) of this section.

(c) *Minimum eligibility requirements.* Projects receiving AHP subsidies pursuant to a Bank's competitive application program must meet the following eligibility requirements:

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(1) *Owner-occupied or rental housing.* The AHP subsidy shall be used exclusively for:

(i) *Owner-occupied housing.* The purchase, construction, or rehabilitation of an owner-occupied project by or for very low-income or low- or moderate-income households. A household must have an income meeting the income targeting commitments in the approved AHP application at the time it is qualified by the project sponsor for participation in the project.

(ii) *Rental housing.* The purchase, construction, or rehabilitation of a rental project, where at least 20 percent of the units in the project are occupied by and affordable for very low-income households. A household must have an income meeting the income targeting commitments in the approved AHP application upon initial occupancy of the rental unit, or for projects involving the purchase or rehabilitation of rental housing that already is occupied, at the time the application for AHP subsidy is submitted to the Bank for approval.

(2) *Need for subsidy.* (i) The project's estimated sources of funds shall equal its estimated uses of funds, as reflected in the project's development budget. The difference between the project's sources of funds and uses of funds is the project's need for AHP subsidy, which is the maximum amount of AHP subsidy the project may receive. A Bank, in its discretion, may permit a project's sources of funds to include or exclude the estimated market value of in-kind donations and voluntary professional labor or services (excluding the value of sweat equity), provided that the project's uses of funds also include or exclude, respectively, the value of such estimates.

(ii) A project's cash sources of funds shall include any cash contributions by the sponsor, any cash from sources other than the sponsor, and estimates of funds the project sponsor intends to obtain from other sources but which have not yet been committed to the project. In the case of homeownership projects where the sponsor extends permanent financing to the homebuyer, the sponsor's cash contribution shall include the present value of any payments the sponsor is to receive from

the buyer, which shall include any cash down payment from the buyer, plus the present value of any purchase note the sponsor holds on the unit. If the note carries a market interest rate commensurate with the credit quality of the buyer, the present value of the note equals the face value of the note. If the note carries an interest rate below the market rate, the present value of the note shall be determined using the market rate to discount the cash flows.

(iii) A project's cash uses are the actual outlay of cash needed to pay for materials, labor, and acquisition or other costs of completing the project. Cash costs do not include in-kind donations, voluntary professional labor or services, or sweat equity.

(3) *Project costs*—(i) *In general.* (A) Taking into consideration the geographic location of the project, development conditions, and other non-financial household or project characteristics, a Bank shall determine that a project's costs, as reflected in the project's development budget, are reasonable, in accordance with the Bank's project cost guidelines.

(B) For purposes of determining the reasonableness of a developer's fee for a project as a percentage of total development costs, a Bank may, in its discretion, include estimates of the market value of in-kind donations and volunteer professional labor or services (excluding the value of sweat equity) committed to the project as part of the total development costs.

(ii) *Cost of property and services provided by a member.* The purchase price of property or services, as reflected in the project's development budget, sold to the project by a member providing AHP subsidy to the project, or, in the case of property, upon which such member holds a mortgage or lien, may not exceed the market value of such property or services as of the date the purchase price was agreed upon. In the case of real estate owned property sold to a project by a member providing AHP subsidy to the project, or property sold to the project upon which the member holds a mortgage or lien, the market value of such property is deemed to be the "as-is" or "as-rehabilitated" value of the property, whichever is appropriate. That value shall be

reflected in an independent appraisal of the property performed by a state certified or licensed appraiser, as defined in 12 CFR 564.2(j) and (k), within 6 months prior to the date the Bank disburses AHP subsidy to the project.

(4) *Project feasibility*—(i) *Developmental feasibility*. The project must be likely to be completed and occupied, based on relevant factors contained in the Bank's project feasibility guidelines, including, but not limited to, the development budget, market analysis, and project sponsor's experience in providing the requested assistance to households.

(ii) *Operational feasibility of rental projects*. A rental project must be able to operate in a financially sound manner, in accordance with the Bank's project feasibility guidelines, as projected in the project's operating *pro forma*.

(5) *Financing costs*. The rate of interest, points, fees, and any other charges for all loans that are made for the project in conjunction with the AHP subsidy shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

(6) *Timing of AHP subsidy use*. Some or all of the AHP subsidy must be likely to be drawn down by the project or used by the project to procure other financing commitments within 12 months of the date of approval of the application for AHP subsidy funding the project.

(7) *Counseling costs*. AHP subsidies may be used to pay for counseling costs only where:

(i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit; and

(ii) The cost of the counseling has not been covered by another funding source, including the member.

(8) *Refinancing*. The project may use AHP subsidies to refinance an existing single-family or multi-family mortgage loan, provided that the refinancing produces equity proceeds and such equity proceeds up to the amount of the AHP subsidy in the project shall be used only for the purchase, construction, or rehabilitation of housing units meeting

the eligibility requirements of this paragraph (c).

(9) *Retention*—(i) *Owner-occupied projects*. Each AHP-assisted unit in an owner-occupied project is, or is committed to be, subject to a 5-year retention agreement described in § 1291.9(a)(7) of this part.

(ii) *Rental projects*. AHP-assisted rental projects are, or are committed to be, subject to a 15-year retention agreement described in § 1291.9(a)(8) of this part.

(10) *Project sponsor qualifications*—(i) *In general*. A project's sponsor must be qualified and able to perform its responsibilities as committed to in the application for AHP subsidy funding the project.

(ii) *Revolving loan fund*. Pursuant to written policies adopted by a Bank's board of directors, a revolving loan fund sponsor that intends to use AHP direct subsidy in accordance with § 1291.5(c)(13) of this part shall:

(A) Provide audited financial statements that its operations are consistent with sound business practices; and

(B) Demonstrate the ability to re-lend AHP subsidy repayments on a timely basis and track the use of the AHP subsidy.

(iii) *Loan pool*. Pursuant to written policies adopted by a Bank's board of directors, a loan pool sponsor that intends to use AHP subsidy in accordance with § 1291.5(c)(14) of this part shall:

(A) Provide evidence of sound asset/liability management practices;

(B) Provide audited financial statements that its operations are consistent with sound business practices; and

(C) Demonstrate the ability to track the use of the AHP subsidy.

(11) *Fair housing*. The project, as proposed, must comply with applicable federal and state laws on fair housing and housing accessibility, including, but not limited to, the Fair Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Architectural Barriers Act of 1969, and must demonstrate how the project will be affirmatively marketed.

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(12) *Calculation of AHP subsidy.* (i) Where an AHP direct subsidy is provided to a project to write down the interest rate on a loan extended by a member, sponsor, or other party to a project, the net present value of the interest foregone from making the loan below the lender's market interest rate shall be calculated as of the date the application for AHP subsidy is submitted to the Bank, and subject to adjustment under paragraph (g)(4) of this section.

(ii) Where an AHP subsidized advance is provided to a project, the net present value of the interest revenue foregone from making a subsidized advance at a rate below the Bank's cost of funds shall be determined as of the earlier of the date of disbursement of the subsidized advance or the date prior to disbursement on which the Bank first manages the funding to support the subsidized advance through its asset/liability management system, or otherwise.

(13) *Lending and re-lending of AHP direct subsidy by revolving loan funds.* Pursuant to written policies established by a Bank's board of directors after consultation with its Advisory Council, a Bank, in its discretion, may provide AHP direct subsidy under its competitive application program for eligible projects and households involving both the lending of the subsidy and subsequent lending of subsidy principal and interest repayments by a revolving loan fund, provided the following requirements are met:

(i) *Submission of application.* (A) An application for AHP subsidy under this paragraph (c)(13) shall include the revolving loan fund's criteria for the initial lending of the subsidy, identification of and information on a specific proposed AHP project if required in the Bank's discretion, the revolving loan fund's criteria for subsequent lending of subsidy principal and interest repayments, and any other information required by the Bank.

(B) The information in the application shall be sufficient for the Bank to:

(I) Determine that the criteria for the initial lending of the subsidy, the specific proposed project if applicable, and the criteria for subsequent lending of subsidy principal and interest repay-

ments, meet the eligibility requirements of paragraph (c) of this section; and

(2) Evaluate the criteria for the initial lending of the subsidy, and the specific proposed project if applicable, pursuant to the scoring guidelines established by the Bank pursuant to paragraph (d) of this section.

(ii) *Review of application.* A Bank shall review the application for AHP subsidy to determine that the criteria for the initial lending of the subsidy, the specific proposed project if applicable, and the criteria for subsequent lending of subsidy principal and interest repayments, meet the eligibility requirements of paragraph (c) of this section, and shall evaluate the criteria for the initial lending of the subsidy and the specific proposed project, if applicable, pursuant to the scoring guidelines established by the Bank pursuant to paragraph (d) of this section.

(iii) *Initial lending of subsidy.* (A) The revolving loan fund's initial lending of the AHP subsidy shall meet the eligibility requirements of this paragraph (c), shall be to projects or households meeting the commitments in the approved application for AHP subsidy, and shall be subject to the requirements of §§1291.7(a) and 951.9 of this part, respectively.

(B) If a project or owner-occupied unit funded under this paragraph (c)(13)(iii) is in noncompliance with the commitments in the approved AHP application, or is sold or refinanced prior to the end of the applicable AHP retention period, the required amount of AHP subsidy shall be repaid to the revolving loan fund in accordance with §§1291.8 and 951.9 of this part, and the revolving loan fund shall re-lend such repaid subsidy, excluding the amounts of AHP subsidy principal already repaid to the revolving loan fund, to another project or owner-occupied unit meeting the initial lending requirements of this paragraph (c)(13)(iii) for the remainder of the retention period.

(iv) *Subsequent lending of AHP subsidy principal and interest repayments.* (A) AHP subsidy principal and interest repayments received by the revolving loan fund from the initial lending of the AHP direct subsidy shall be re-lent

by the revolving loan fund in accordance with the requirements of this paragraph (c)(13)(iv), except that the revolving loan fund, in its discretion, may provide part or all of such repayments as nonrepayable grants to eligible projects in accordance with the requirements of this paragraph (c)(13)(iv).

(B) The revolving loan fund's subsequent lending of AHP subsidy principal and interest repayments shall be for the purchase, construction, or rehabilitation of owner-occupied projects for households with incomes at or below 80 percent of the median income for the area, or of rental projects where at least 20 percent of the units are occupied by and affordable for households with incomes at or below 50 percent of the median income for the area, and shall meet all other eligibility requirements of this paragraph (c).

(C) A Bank may, in its discretion, require the revolving loan fund's subsequent lending of subsidy principal and interest repayments to be subject to retention period, monitoring, and recapture requirements as defined by the Bank in its AHP Implementation Plan.

(v) *Return of unused AHP subsidy.* The revolving loan fund shall return to the Bank any AHP subsidy that will not be used according to the requirements in this paragraph (c)(13).

(14) *Use of AHP subsidy in loan pools.* Pursuant to written policies established by a Bank's board of directors after consultation with its Advisory Council, a Bank, in its discretion, may provide AHP subsidy under its competitive application program for the origination of first mortgage or rehabilitation loans with subsidized interest rates to AHP-eligible households through a purchase commitment by an entity that will purchase and pool the loans, provided the following requirements are met:

(i) *Eligibility requirements.* The loan pool sponsor's use of the AHP subsidies shall meet the requirements under this paragraph (c)(14), and shall not be used for the purpose of providing liquidity to the originator or holder of the loans, or paying the loan pool's operating or secondary market transaction costs.

(ii) *Forward commitment.* (A) The loan pool sponsor shall purchase the loans

pursuant to a forward commitment that identifies the loans to be originated with interest-rate reductions as specified in the approved application for AHP subsidy to households with incomes at or below 80 percent of the median income for the area. Both initial purchases of loans for the AHP loan pool and subsequent purchases of loans to substitute for repaid loans in the pool shall be made pursuant to the terms of such forward commitment and subject to time limits on the use of the AHP subsidy as specified by the Bank in its AHP Implementation Plan and the Bank's agreement with the loan pool sponsor, which shall not exceed 1 year from the date of approval of the AHP application.

(B) As an alternative to using a forward commitment, the loan pool sponsor may purchase an initial round of loans that were not originated pursuant to an AHP-specific forward commitment, provided that the entities from which the loans were purchased are required to use the proceeds from the initial loan purchases within time limits on the use of the AHP subsidy as specified by the Bank in its AHP Implementation Plan and the Bank's agreement with the loan pool sponsor, which shall not exceed 1 year from the date of approval of the AHP application. The proceeds shall be used by such entities to assist households that are income-eligible under the approved AHP application during subsequent rounds of lending, and such assistance shall be provided in the form of a below-market AHP-subsidized interest rate as specified in the approved AHP application.

(iii) Each AHP-assisted owner-occupied unit and rental project receiving AHP direct subsidy or a subsidized advance shall be subject to the requirements of § 1291.7(a), 951.8, and 951.9, respectively, of this part.

(iv) Where AHP direct subsidy is being used to buy down the interest rate of a loan or loans from a member or other party, the loan pool sponsor shall use the full amount of the AHP direct subsidy to buy down the interest rate on a permanent basis at the time of closing on such loan or loans.

(15) *Optional District eligibility requirements.* A Bank may require a project

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receiving AHP subsidies to meet one or more of the following additional eligibility requirements adopted by the Bank's board of directors and included in its AHP Implementation Plan after consultation with its Advisory Council:

(i) *AHP subsidy limits.* A requirement that the amount of AHP subsidy requested for the project does not exceed limits established by the Bank as to the maximum amount of AHP subsidy available per member each year, or per member, per project, or per project unit in a single funding period; or

(ii) *Homebuyer or homeowner counseling.* A requirement that a household must complete a homebuyer or homeowner counseling program provided by, or based on one provided by, an organization recognized as experienced in homebuyer or homeowner counseling, respectively.

(16) *Prohibited uses of AHP subsidies.* The project shall not use AHP subsidies to pay for:

(i) *Certain prepayment fees.* Prepayment fees imposed by a Bank on a member for a subsidized advance that is prepaid, unless:

(A) The project is in financial distress that cannot be remedied through a project modification pursuant to § 1291.5(f) of this part;

(B) The prepayment of the subsidized advance is necessary to retain the project's affordability and income targeting commitments;

(C) Subsequent to such prepayment, the project will continue to comply with the terms of the approved AHP application and the requirements of this part for the duration of the original retention period;

(D) Any unused AHP subsidy is returned to the Bank and made available for other AHP projects; and

(E) The amount of AHP subsidy used for the prepayment fee may not exceed the amount of the member's prepayment fee to the Bank.

(ii) *Cancellation fees.* Cancellation fees and penalties imposed by a Bank on a member for a subsidized advance commitment that is canceled.

(iii) *Processing fees.* Processing fees charged by members for providing AHP direct subsidies to a project.

(d) *Scoring of applications—(1) In general.* A Bank shall establish written

scoring guidelines setting forth the Bank's AHP competitive application program scoring criteria and related definitions and point allocations, and implementing other applicable requirements pursuant to this paragraph (d). A Bank shall not adopt additional scoring criteria or point allocations, except as specifically authorized under this paragraph (d).

(2) *Point allocations.* (i) A Bank shall allocate 100 points among the 9 scoring criteria identified in paragraph (d)(5) of this section.

(ii) The scoring criterion for targeting identified in paragraph (d)(5)(iii) of this section shall be allocated at least 20 points.

(iii) The remaining scoring criteria shall be allocated at least 5 points each.

(3) *Fixed point and variable point scoring criteria.* A Bank shall designate each scoring criterion as either a fixed-point or a variable-point criterion, defined as follows:

(i) Fixed-point scoring criteria are those which cannot be satisfied in varying degrees and are either satisfied or not, with the total number of points allocated to the criterion awarded by the Bank to an application meeting the criterion; and

(ii) Variable-point criteria are those where there are varying degrees to which an application can satisfy the criteria, with the number of points that may be awarded to an application for meeting the criterion varying, depending on the extent to which the application satisfies the criterion, based on a fixed scale or on a scale relative to the other applications being scored. A Bank shall designate the targeting and subsidy-per-unit scoring criteria identified in paragraphs (d)(5)(iii) and (d)(5)(viii), respectively, of this section, as variable-point criteria.

(4) *Satisfaction of scoring criteria.* A Bank shall award scoring points to applications for proposed projects based on satisfaction of the scoring criteria adopted by the Bank pursuant to paragraph (d)(5) of this section.

(5) *Scoring criteria.* An application for a proposed project may receive scoring points based on satisfaction of the following 9 scoring criteria:

(i) *Use of donated or conveyed government-owned or other properties.* The financing of housing using a significant proportion, as defined by the Bank in its AHP Implementation Plan, of:

(A) Land or units donated or conveyed by the federal government or any agency or instrumentality thereof; or

(B) Land or units donated or conveyed by any other party for an amount significantly below the fair market value of the property, as defined by the Bank in its AHP Implementation Plan.

(ii) *Sponsorship by a not-for-profit organization or government entity.* Project sponsorship by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American Tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands.

(iii) *Targeting.* The extent to which a project provides housing for very low- and low- or moderate-income households, as follows:

(A) *Rental projects.* An application for a rental project shall be awarded the maximum number of points available under this scoring criterion if 60 percent or more of the units in the project are reserved for occupancy by households with incomes at or below 50 percent of the median income for the area. Applications for projects with less than 60 percent of the units reserved for occupancy by households with incomes at or below 50 percent of the median income for the area shall be awarded points on a declining scale based on the percentage of units in a project that are reserved for households with incomes at or below 50 percent of the median income for the area, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent of the median income for the area.

(B) *Owner-occupied projects.* Applications for owner-occupied projects shall be awarded points based on a declining scale to be determined by the Bank in its AHP Implementation Plan, taking into consideration percentages of units and targeted income levels.

(C) *Separate scoring.* For purposes of this scoring criterion, applications for

owner-occupied projects and rental projects may be scored separately.

(iv) *Housing for homeless households.* The financing of rental housing, excluding overnight shelters, reserving at least 20 percent of the units for homeless households, the creation of transitional housing for homeless households permitting a minimum of 6 months occupancy, or the creation of permanent owner-occupied housing reserving at least 20 percent of the units for homeless households, with the term “homeless households” as defined by the Bank in its AHP Implementation Plan.

(v) *Promotion of empowerment.* The provision of housing in combination with a program offering: employment; education; training; homebuyer, homeownership, or tenant counseling; daycare services; resident involvement in decision making affecting the creation or operation of the project; or other services that assist residents to move toward better economic opportunities, such as welfare to work initiatives.

(vi) *First District priority.* The satisfaction of one of the following criteria, or one of a number of the following criteria, adopted by the Bank and set forth in the Bank’s AHP Implementation Plan, as long as the total points available for meeting the criterion or criteria adopted under this category do not exceed the total points allocated to this category:

(A) *Special needs.* The financing of housing in which at least 20 percent of the units are reserved for occupancy by households with special needs, such as the elderly, mentally or physically disabled persons, persons recovering from physical abuse or alcohol or drug abuse, or persons with AIDS; or the financing of housing that is visitable by persons with physical disabilities who are not occupants of such housing;

(B) *Community development.* The financing of housing meeting housing needs documented as part of a community revitalization or economic development strategy approved by a unit of a state or local government;

(C) *First-time homebuyers.* The financing of housing for first-time homebuyers;

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(D) *Member financial participation.* Member financial participation (excluding the pass-through of AHP subsidy) in the project, such as providing market rate or concessionary financing, fee waivers, or donations;

(E) *Disaster areas and displaced households.* The financing of housing located in federally declared disaster areas, or for households displaced from federally declared disaster areas due to a disaster;

(F) *Rural.* The financing of housing located in rural areas;

(G) *Urban.* The financing of urban infill or urban rehabilitation housing;

(H) *Economic diversity.* The financing of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income neighborhoods, or providing very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median income equals or exceeds the median income for the larger surrounding area, such as the city, county, or Primary Metropolitan Statistical Area, in which the neighborhood or city is located;

(I) *Fair housing remedy.* The financing of housing as part of a remedy undertaken by a jurisdiction adjudicated by a Federal, State, or local court to be in violation of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), the Fair Housing Act (42 U.S.C. 3601 *et seq.*), or any other Federal, State, or local fair housing law, or as part of a settlement of such claims;

(J) *Community involvement.* Demonstrated support for the project by local government, other than as a project sponsor, in the form of property tax deferment or abatement, zoning changes or variances, infrastructure improvements, fee waivers, or other similar forms of non-cash assistance, or demonstrated support for the project by community organizations or individuals, other than as project sponsors, through the commitment by such entities or individuals of donated goods and services, or volunteer labor;

(K) *Lender consortia.* The involvement of financing by a consortium of at least 2 financial institutions; or

(L) *In-District projects.* The financing of housing located in the Bank's District.

(vii) *Second District priority: defined housing need in the District.* The satisfaction of a housing need in the Bank's District, as defined by the Bank in its AHP Implementation Plan. The Bank may, but is not required to, use one of the criteria listed in paragraph (d)(5)(vi) of this section, provided it is different from the criterion or criteria adopted by the Bank under such paragraph.

(viii) *AHP subsidy per unit—(A) Amount of subsidy.* The extent to which a project proposes to use the least amount of AHP subsidy per AHP-targeted unit. In the case of an application for a project financed by a subsidized advance, the total amount of AHP subsidy used by the project shall be estimated based on the Bank's cost of funds as of the date on which all applications are due for the funding period in which the application is submitted.

(B) *Separate scoring.* For purposes of this scoring criterion, applications for owner-occupied projects and rental projects may be scored separately.

(ix) *Community stability.* The promotion of community stability, such as by rehabilitating vacant or abandoned properties, being an integral part of a neighborhood stabilization plan approved by a unit of state or local government, and not displacing low- or moderate-income households, or if such displacement will occur, assuring that such households will be assisted to minimize the impact of such displacement.

(e) *Approval of AHP applications.* (1) A Bank shall approve applications for AHP subsidy in descending order starting with the highest scoring application until the total funding amount for the particular funding period, except for any amount insufficient to fund the next highest scoring application, has been allocated.

(2) The Bank also shall approve at least the next 4 highest scoring applications as alternates and, within 1 year of approval, may fund such alternates if any previously committed AHP subsidies become available.

(f) *Modifications of approved AHP applications*—(1) *Modification procedure*. If, prior to or after final disbursement of funds to a project from all funding sources, there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, a Bank, in its discretion, may approve in writing a modification to the terms of the approved application, provided that:

(i) The project, incorporating any such changes, would meet the eligibility requirements of paragraph (c) of this section;

(ii) The application, as reflective of such changes, continues to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank; and

(iii) There is good cause for the modification, and the analysis and justification for the modification are documented by the Bank in writing.

(2) *AHP subsidy increases; no delegation*. Modifications involving an increase in AHP subsidy shall be approved or disapproved by a Bank's board of directors. The authority to approve or disapprove such requests shall not be delegated to Bank officers or other Bank employees.

(g) *Procedure for funding*—(1) *Disbursement of AHP subsidies to members*. (i) A Bank may disburse AHP subsidies only to institutions that are members of the Bank at the time they request a draw-down of the subsidies.

(ii) If an institution with an approved application for AHP subsidy loses its membership in a Bank, the Bank may disburse AHP subsidies to a member of such Bank to which the institution has transferred its obligations under the approved AHP application, or the Bank may disburse AHP subsidies through another Bank to a member of that Bank that has assumed the institution's obligations under the approved AHP application.

(2) *Progress towards use of AHP subsidy*. A Bank shall establish and implement policies, including time limits, for determining whether progress is being made towards draw-down and use

of AHP subsidies by approved projects, and whether to cancel AHP application approvals for lack of such progress. If a Bank cancels any AHP application approvals due to lack of such progress, the Bank shall make the AHP subsidies available for other AHP-eligible projects.

(3) *Compliance upon disbursement of AHP subsidies*. A Bank shall establish and implement policies for determining, prior to its initial disbursement of AHP subsidies for an approved project, and prior to each subsequent disbursement if the need for AHP subsidy has changed, that the project meets the eligibility requirements of paragraph (c) of this section and all obligations committed to in the approved AHP application. If a Bank cancels any AHP application approvals due to non-compliance with eligibility requirements of paragraph (c) of this section, the Bank shall make the AHP subsidies available for other AHP-eligible projects.

(4) *Changes in approved AHP subsidy amount where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan*. If a member is approved to receive AHP direct subsidy to write down prior to closing the principal amount or the interest rate on a loan to a project, and the amount of AHP subsidy required to maintain the debt service cost for the loan decreases from the amount of AHP subsidy initially approved by the Bank due to a decrease in market interest rates between the time of approval and the time the lender commits to the interest rate to finance the project, the Bank shall reduce the AHP subsidy amount accordingly. If market interest rates rise between the time of approval and the time the lender commits to the interest rate to finance the project, the Bank, in its discretion, may increase the AHP subsidy amount accordingly.

(5) *AHP outlay adjustment*. If a Bank reduces the amount of AHP subsidy approved for a project, the amount of such reduction shall be returned to the Bank's AHP fund. If a Bank increases the amount of AHP subsidy approved for a project, the amount of such increase shall be drawn first from any currently uncommitted or repaid AHP

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subsidies and then from the Bank's required AHP contribution for the next year.

(6) *Project sponsor notification of reuse of repaid AHP direct subsidy.* Prior to disbursement by a project sponsor of AHP direct subsidy repaid to and retained by such project sponsor pursuant to a subsidy re-use program authorized by the Bank under § 1291.8(f)(2) of this part, the project sponsor shall provide written notice to the member and the Bank of its intent to disburse the repaid AHP subsidy to a household satisfying the requirements of this part and the commitments made in the approved AHP application.

(h) *Bank board duties and delegation—*
(1) *Duties.* A Bank's board of directors, after consultation with its Advisory Council, shall be responsible for:

(i) Adoption of the AHP Implementation Plan required pursuant to § 1291.3 of this part; and

(ii) Approving or disapproving the applications for AHP subsidy pursuant to § 1291.5(e) of this part.

(2) *No delegation.* The Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibilities set forth in paragraph (h)(1) of this section.

§ 1291.6 Homeownership set-aside programs.

(a) *Establishment of program.* A Bank may establish one or more homeownership set-aside programs pursuant to the requirements of this part.

(b) *Eligible applicants.* A Bank shall accept applications for AHP direct subsidy under its homeownership set-aside programs only from institutions that are members of the Bank at the time the application is submitted to the Bank.

(c) *Minimum eligibility requirements.* A Bank's homeownership set-aside programs shall meet the following eligibility requirements:

(1) *Member allocation criteria.* AHP direct subsidies shall be provided to members pursuant to allocation criteria established by the Bank in its AHP Implementation Plan.

(2) *Eligible households.* Members shall provide AHP direct subsidies only to households that:

(i) Have incomes at or below 80 percent of the median income for the area at the time the household is accepted for enrollment by the member in the Bank's homeownership set-aside program, with such time of enrollment by the member defined by the Bank in its AHP Implementation Plan;

(ii) Complete a homebuyer or homeowner counseling program provided by, or based on one provided by, an organization experienced in homebuyer or homeowner counseling, in the case of households that are first-time homebuyers; and

(iii) Are first-time homebuyers, in the case of households receiving funds pursuant to the first-time homebuyer requirement in § 1291.2(b)(2) of this part, and meet such other eligibility criteria that may be established by the Bank in its AHP Implementation Plan, such as a matching funds requirement, homebuyer or homeowner counseling requirement for households that are not first-time homebuyers, or criteria that give priority for the purchase or rehabilitation of housing in particular areas or as part of a disaster relief effort.

(3) *Maximum grant amount.* Members shall provide AHP direct subsidies to households as a grant, in an amount up to a maximum of \$15,000 per household, as established by the Bank in its AHP Implementation Plan, which limit shall apply to all households.

(4) *Eligible uses of AHP direct subsidy.* Households shall use the AHP direct subsidies to pay for down payment, closing cost, counseling, or rehabilitation assistance in connection with the household's purchase or rehabilitation of an owner-occupied unit, including a condominium or cooperative housing unit or manufactured housing, to be used as the household's primary residence.

(5) *Retention agreement.* An owner-occupied unit purchased or rehabilitated using AHP direct subsidy shall be subject to a 5-year retention agreement described in § 1291.9(a)(7) of this part.

(6) *Financial or other concessions.* The Bank may, in its discretion, require members and other lenders to provide